

REMARKS/ARGUMENTS

Status of the Application

In the October 19, 2006, Non-Final Office Action, claims 1-12 were rejected and objected to. In the present response, claims 1, 3-4, 6-8, 10, and 12 were amended to correct grammatical errors and for clarity. No new matter was added.

Claim Objections

Claims 1-12 were objected to for containing non-elected subject matter. Based on the fact that claims directed to the elected species, the *thrS* mutation, are free of the prior art (as established below), Applicants respectfully request search and examination of claims 1-12 as they relate to non-elected gene mutations, that is, *rpsA*, *rpoC*, *yjeR*, and *rhoL*. Given the limited number of genes at issue, such a search should not impose a serious burden on the Examiner.

Claim 4 was objected to for reciting the term “is comprising”. Applicants respectfully submit that the present amendment to claim 4 obviates this objection.

Claim 6 was objected to for reciting the word “and” in italics. Applicants respectfully submit that the present amendment to claim 6 obviates this objection. Applicants note that claims 1 and 12 also contained the word “and” in italics and that these claims have been similarly corrected.

Claims 7-9 were objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants respectfully submit that the present amendments to claims 7 and 8 obviate these objections.

Rejections Under 35 U.S.C. § 102(e)

Claims 1-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by Cheng *et al.* (Published U.S. Patent Application No. 2004/0146966). In response, Applicants attach herewith a 132 declaration signed by Qiong Cheng, an inventor of both the present application and Cheng *et al.*, stating any invention disclosed but not claimed in Cheng *et al.* was derived from the inventors of the present application. As such, the subject matter disclosed in Cheng *et al.* is not an invention by another as required by section 102(e). Applicants thus respectfully submit that Cheng *et al.* has been removed as reference against the present application.

Rejections Under 35 U.S.C. § 112, 2nd Paragraph

Claims 3-12 were rejected under 35 U.S.C. § 112, 2nd Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 3 was objected to for reciting features already in claim 2. Claim 10 was objected to for being ambiguous as to whether a second target gene must be present in the cell. Applicants submit that the present amendments to claims 3 and 10 obviate these indefiniteness rejections.

Summary

In view of the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance. In order to expedite disposition of this case, the Examiner is invited to contact Applicants' representative at the telephone number below to resolve any remaining issues. Should there be a fee due which is not accounted for, please charge such fee to Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company).

Respectfully submitted,

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